

**ASSEMBLY BILL**

**No. 2507**

**Introduced by Assembly Member Maldonado**

February 19, 2004

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An act to amend 7581, 7582.2, 7583.2, 7583.8, 7583.9, 7583.34, 7583.36, and 7587.7 of the Business and Professions Code, relating to private security services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2507, as introduced, Maldonado. Private security services.

(1) Existing law authorizes the Director of Consumer Affairs to adopt and enforce reasonable rules regarding persons employed by any lawful business as security guards or patrolpersons. Existing law requires specified uniformed employees acting as a security guard or a patrolperson and carrying a deadly weapon to register with the Bureau of Security and Investigative Services.

This bill would expand the scope of these provisions to include public agencies that employ security guards or patrolpersons. The bill would require an employee acting as a security guard or patrolperson to register with the bureau, including employees not carrying a deadly weapon.

(2) Existing law provides that statutory provisions governing the licensing and regulation of private security services do not apply to individuals who are exclusively and regularly employed by an employer who does not provide contract security services for other entities or persons if the employee does not carry a deadly weapon.

This bill would on January 1, 2005, include individuals who do not carry deadly weapons but are exclusively and regularly employed by an employer that does not provide contract security services for other

entities or persons in the provisions governing the licensing and regulation of private security services.

(3) Existing law prohibits persons licensed as a private patrol operator from, among other things, failing to maintain accurate records of firearms in their possession, failing to maintain accurate records on employees, and failing to inform the director in a written report about the discharge of a firearm within 7 days of the incident.

This bill would extend these conditions to any lawful business or public agency that employs security guards.

(4) Existing law prohibits an employee of a licensee who acts as a security guard or patrolperson from having a registration card until the department receives proof that the employee has been certified regarding the power to arrest.

This bill would additionally prohibit an employee of a lawful business or public agency acting as a security guard or patrolperson from having a registration card until the department receives proof that the employee has been certified regarding the power to arrest.

(5) Existing law requires an employee of a private patrol operator who acts as a security guard or patrolperson to register with the bureau on a form prescribed by the bureau.

This bill would require an employee of a lawful business or public agency who acts as a security guard or patrolperson to register with the bureau.

(6) Existing law prohibits a licensee from allowing an employee to carry a baton, tear gas, or any other nonlethal chemical agent unless the employee is proficient in the use of a baton, tear gas, or nonlethal chemical agent.

This bill would additionally prohibit any lawful business or public agency that employs registered security guards from allowing a registered security guard to carry a baton, tear gas, or any other nonlethal chemical agent unless the registered security guard is proficient in the use of a baton, tear gas, or nonlethal chemical agent.

(7) Existing law authorizes the director to issue a citation to a licensee, including a corporation, if the director determines a licensee has violated specified provisions regarding private security services. Existing law provides a citation recipient with a review and appeal process.

This bill would authorize the director to issue a citation to a lawful business or public agency if the director determines the lawful business or public agency has violated specified provisions regarding private



security services. The bill would provide a review and appeal process to any lawful business or public agency that received a citation from the director.

(8) Because a violation of the provisions of the bill relating to private security services would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7581 of the Business and Professions
- 2 Code is amended to read:
- 3 7581. The director may adopt and enforce reasonable rules, as
- 4 follows:
- 5 (a) Classifying licensees according to the type of business
- 6 regulated by this chapter in which they are engaged, including, but
- 7 not limited to, persons employed by any lawful business *or public*
- 8 *agency* as security guards or patrolpersons, and armored contract
- 9 carriers and limiting the field and scope of the operations of a
- 10 licensee to those in which he or she is classified and qualified to
- 11 engage.
- 12 (b) Fixing the qualifications of licensees and managers, in
- 13 addition to those prescribed in this chapter, necessary to promote
- 14 and protect the public welfare.
- 15 (c) Carrying out generally the provisions of this chapter,
- 16 including regulation of the conduct of licensees.



(d) Establishing the qualifications that any person employed by a private patrol operator ~~or any~~, lawful business, *or public agency* as a security guard or patrolperson, or employed by an armored contract carrier, must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code.

(e) Requiring each ~~uniformed~~ employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator ~~or any~~, lawful business, *or public agency* as a security guard or patrolperson ~~and who in the course of this employment carries a deadly weapon~~ to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice, establishing the term of the registration for a period of not less than two nor more than four years, and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for a hearing, refuse this registration to any person who lacks good moral character, and may impose reasonable additional requirements as are necessary to meet local needs that are not inconsistent with the provisions of this chapter.

(f) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with, or any person in this state, may file a complaint with the director alleging that any licensed private patrol operator, registered security guard, or patrolperson, or anyone who is an applicant for registration or licensure with the bureau, fails to meet standards for registration or licensure, or violates any provision of this chapter, and providing further for the investigation of the charges and a response to the charging or complaining party in the manner described in subdivision (b) of Section 129.

(g) Requiring private patrol operators and any lawful business *or public agency* to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to those firearms.

SEC. 2. Section 7582.2 of the Business and Professions Code is amended to read:

1 7582.2. This chapter does not apply to:

2 (a) A person employed exclusively and regularly by any  
3 employer who does not provide contract security services for other  
4 entities or persons, in connection with the affairs of the employer  
5 only and where there exists an employer-employee relationship if  
6 that person at no time carries or uses any deadly weapon in the  
7 performance of his or her duties. For purposes of this subdivision,  
8 “deadly weapon” is defined to include any instrument or weapon  
9 of the kind commonly known as a blackjack, slungshot, billy,  
10 sandclub, sandbag, metal knuckles, any dirk, dagger, pistol,  
11 revolver, or any other firearm, any knife having a blade longer than  
12 five inches, any razor with an unguarded blade and any metal pipe  
13 or bar used or intended to be used as a club. *This subdivision shall*  
14 *be inoperative on January 1, 2005. Prior to January 1, 2005, the*  
15 *Employment Development Department shall send notices to all*  
16 *lawful businesses and public agencies regarding this change.*

17 (b) An officer or employee of the United States of America, or  
18 of this state or a political subdivision thereof, while the officer or  
19 employee is engaged in the performance of his or her official  
20 duties, including uniformed peace officers employed part time by  
21 a public agency pursuant to a written agreement between a chief  
22 of police or sheriff and the public agency, provided the part-time  
23 employment does not exceed 50 hours in any calendar month.

24 (c) A person engaged exclusively in the business of obtaining  
25 and furnishing information as to the financial rating of persons.

26 (d) A charitable philanthropic society or association duly  
27 incorporated under the laws of this state which is organized and  
28 maintained for the public good and not for private profit.

29 (e) Patrol special police officers appointed by the police  
30 commission of any city, county, or city and county under the  
31 express terms of its charter who also under the express terms of the  
32 charter (1) are subject to suspension or dismissal after a hearing on  
33 charges duly filed with the commission after a fair and impartial  
34 trial, (2) must be not less than 18 years of age nor more than 40  
35 years of age, (3) must possess physical qualifications prescribed  
36 by the commission, and (4) are designated by the police  
37 commission as the owners of a certain beat or territory as may be  
38 fixed from time to time by the police commission.

39 (f) An attorney at law in performing his or her duties as an  
40 attorney at law.

1 (g) A collection agency or an employee thereof while acting  
2 within the scope of his or her employment, while making an  
3 investigation incidental to the business of the agency, including an  
4 investigation of the location of a debtor or his or her property  
5 where the contract with an assignor creditor is for the collection of  
6 claims owed or due or asserted to be owed or due or the equivalent  
7 thereof.

8 (h) Admitted insurers and agents and insurance brokers  
9 licensed by the state, performing duties in connection with  
10 insurance transacted by them.

11 (i) Any bank subject to the jurisdiction of the Commissioner of  
12 Financial Institutions of the State of California under Division 1  
13 (commencing with Section 99) of the Financial Code or the  
14 Comptroller of Currency of the United States.

15 (j) A person engaged solely in the business of securing  
16 information about persons or property from public records.

17 (k) A peace officer of this state or a political subdivision thereof  
18 while the peace officer is employed by a private employer to  
19 engage in off-duty employment in accordance with Section 1126  
20 of the Government Code. However, nothing herein shall exempt  
21 ~~such a~~ a peace officer who either contracts for his or her services or  
22 the services of others as a private patrol operator or contracts for  
23 his or her services as or is employed as an armed private security  
24 officer. For purposes of this subdivision, “armed security officer”  
25 means an individual who carries or uses a firearm in the course and  
26 scope of that contract or employment.

27 (l) A retired peace officer of the state or political subdivision  
28 thereof when the retired peace officer is employed by a private  
29 employer in employment approved by the chief law enforcement  
30 officer of the jurisdiction where the employment takes place,  
31 provided that the retired officer is in a uniform of a public law  
32 enforcement agency, has registered with the bureau on a form  
33 approved by the director, and has met any training requirements  
34 or their equivalent as established for security personnel under  
35 Section 7583.5. This officer may not carry a loaded or concealed  
36 firearm unless he or she is exempted under the provisions of  
37 subdivision (a) of Section 12027 of the Penal Code or paragraph  
38 (1) of subdivision (b) of Section 12031 of the Penal Code or has  
39 met the requirements set forth in Section 12033 of the Penal Code.  
40 However, nothing herein shall exempt the retired peace officer

1 who contracts for his or her services or the services of others as a  
2 private patrol operator.

3 (m) A licensed insurance adjuster in performing his or her  
4 duties within the scope of his or her license as an insurance  
5 adjuster.

6 (n) Any savings association subject to the jurisdiction of the  
7 Commissioner of Financial Institutions or the Office of Thrift  
8 Supervision.

9 (o) Any secured creditor engaged in the repossession of the  
10 creditor's collateral and any lessor engaged in the repossession of  
11 leased property in which it claims an interest.

12 (p) A peace officer in his or her official police uniform acting  
13 in accordance with subdivisions (c) and (d) of Section 70 of the  
14 Penal Code.

15 SEC. 3. Section 7583.2 of the Business and Professions Code  
16 is amended to read:

17 7583.2. No person licensed as a private patrol operator, *and*  
18 *no lawful business or public agency that employs a security guard*  
19 *registered pursuant to this chapter* shall do any of the following:

20 (a) Fail to properly maintain an accurate and current record of  
21 all firearms or other deadly weapons that are in the possession of  
22 the licensee, *lawful business, or public agency*, or of any employee  
23 while on duty. Within seven days after a licensee, *lawful business,*  
24 *or public agency*, or ~~his or her employees discover~~ *any employee*  
25 *discovers* that a deadly weapon that has been recorded as being in  
26 his or her possession has been misplaced, lost, or stolen, or is in any  
27 other way missing, the licensee or ~~his or her~~ *licensee's* manager,  
28 *lawful business, or public agency* shall mail or deliver to any local  
29 law enforcement agency that has jurisdiction, a written report  
30 concerning the incident. The report shall describe fully the  
31 circumstances surrounding the incident, any injuries or damages  
32 incurred, the identity of all participants, and whether a police  
33 investigation was conducted.

34 (b) Fail to properly maintain an accurate and current record of  
35 the name, address, commencing date of employment, and position  
36 of each employee, and the date of termination of employment  
37 when an employee is terminated.

38 (c) Fail to properly maintain an accurate and current record of  
39 proof of completion by each employee ~~of the licensee~~ of the course  
40 of training in the exercise of the power to arrest as required by



1 Section 7583.5, the security officer skills training required by  
2 subdivision (b) of Section 7583.6, and the annual practice and  
3 review required by subdivision (f) of Section 7583.6.

4 (d) Fail to certify an employee's completion of the course of  
5 training in the exercise of the power to arrest prior to placing the  
6 employee at a duty station.

7 (e) Fail to certify proof of current and valid registration for each  
8 employee who is subject to registration.

9 (f) Permit any employee to carry a firearm or other deadly  
10 weapon without first ascertaining that the employee is proficient  
11 in the use of each weapon to be carried. With respect to firearms,  
12 evidence of proficiency shall include a certificate from a firearm  
13 training facility approved by the director certifying that the  
14 employee is proficient in the use of that specified caliber of firearm  
15 and a current and valid firearm qualification permit issued by the  
16 department. With respect to other deadly weapons, evidence of  
17 proficiency shall include a certificate from a training facility  
18 approved by the director certifying that the employee is proficient  
19 in the use of that particular deadly weapon.

20 (g) Fail to deliver to the director a written report describing  
21 fully the circumstances surrounding the discharge of any firearm,  
22 or physical altercation with a member of the public while on duty,  
23 by a licensee or any officer, partner, or employee of a licensee,  
24 *lawful business, or public agency* while acting within the course  
25 and scope of his or her employment within seven days after the  
26 incident. For the purposes of this subdivision, a report shall be  
27 required only for physical altercations that result in any of the  
28 following: (1) the arrest of a security guard, (2) the filing of a  
29 police report by a member of the public, (3) injury on the part of  
30 a member of the public that requires medical attention, or (4) the  
31 discharge, suspension, or reprimand of a security guard by his or  
32 her employer. The report shall include, but not be limited to, a  
33 description of any injuries or damages incurred, the identity of all  
34 participants, and whether a police investigation was conducted.  
35 Any report may be investigated by the director to determine if any  
36 disciplinary action is necessary.

37 (h) (1) Fail to notify the bureau in writing and within 30 days  
38 that a manager previously qualified pursuant to this chapter is no  
39 longer connected with the licensee.



1 (2) *This subdivision shall not apply to any lawful business or*  
2 *public agency that employs registered security guards.*

3 (i) Fail to administer to each registered employee of the  
4 licensee, the review or practice training required by subdivision (f)  
5 of Section 7583.6.

6 SEC. 4. Section 7583.8 of the Business and Professions Code  
7 is amended to read:

8 7583.8. No employee of a licensee, *lawful business, or public*  
9 *agency* who performs the function of a security guard or security  
10 patrolperson shall be issued a registration card until there is proper  
11 certification by the instructor that the exercise of the power to  
12 arrest course has been taught and the employee's certification that  
13 the instruction was received has been delivered to the department.  
14 Except as provided in subdivision (f) of Section 7583.9, no  
15 security guard registration shall be issued until a criminal history  
16 background check has been completed pursuant to subdivision (e)  
17 of Section 7583.9 and a determination has been made by the  
18 bureau.

19 SEC. 5. Section 7583.9 of the Business and Professions Code  
20 is amended to read:

21 7583.9. (a) Upon accepting employment by a private patrol  
22 operator, *lawful business, or public agency*, any employee who  
23 performs the function of a security guard or security patrolperson  
24 who is not currently registered with the bureau, shall complete an  
25 application for registration on a form as prescribed by the director,  
26 and obtain two classifiable fingerprint cards for submission to the  
27 Department of Justice. The applicant shall submit the application,  
28 the registration fee, and his or her fingerprints to the bureau. The  
29 bureau shall forward the classifiable fingerprint cards to the  
30 Department of Justice. The Department of Justice shall forward  
31 one classifiable fingerprint card to the Federal Bureau of  
32 Investigation for purposes of a background check.

33 (b) If a private patrol operator pays the application fee on  
34 behalf of the applicant, nothing in this section shall preclude the  
35 private patrol operator from withholding the amount of the fee  
36 from the applicant's compensation.

37 (c) The licensee shall maintain supplies of applications and  
38 fingerprint cards that shall be provided by the bureau upon request.

39 (d) In lieu of classifiable fingerprint cards provided for in this  
40 section, the bureau may authorize applicants to submit their

1 fingerprints into an electronic fingerprinting system administered  
2 by the Department of Justice. Applicants who submit their  
3 fingerprints by electronic means shall have their fingerprints  
4 entered into the system through a terminal operated by a law  
5 enforcement agency or other facility authorized by the Department  
6 of Justice to conduct electronic fingerprinting. The enforcement  
7 agency responsible for operating the terminal may charge a fee  
8 sufficient to reimburse it for the costs incurred in providing this  
9 service.

10 (e) Upon receipt of an applicant's electronic or hard card  
11 fingerprints as provided in this section, the Department of Justice  
12 shall disseminate the following information to the bureau:

13 (1) Every conviction rendered against the applicant.

14 (2) Every arrest for an offense for which the applicant is  
15 presently awaiting trial, whether the applicant is incarcerated or  
16 has been released on bail or on his or her own recognizance  
17 pending trial.

18 (f) (1) The requirement in subdivision (a) to submit a  
19 fingerprint card does not apply to any of the following:

20 (A) A currently employed, full-time peace officer holding  
21 peace officer status under Chapter 4.5 (commencing with Section  
22 830) of Title 3 of Part 2 of the Penal Code.

23 (B) A level I or level II reserve officer under paragraphs (1) and  
24 (2) of subdivision (a) of Section 832.6 of the Penal Code.

25 (2) An individual listed in subparagraph (A) or (B) of  
26 paragraph (1) may immediately perform the functions of a security  
27 guard or security patrolperson provided that he or she has  
28 submitted an application, the applicable fees, and his or her  
29 fingerprints, if required to submit fingerprints pursuant to  
30 subdivision (a), to the bureau for a security guard registration.

31 (3) This subdivision does not apply to a peace officer required  
32 to obtain a firearm qualification card pursuant to Section 7583.12.

33 (g) Peace officers exempt from the submission of classifiable  
34 fingerprints pursuant to subdivision (f) shall submit verification of  
35 their active duty peace officer status to the bureau with their  
36 application for registration. A photocopy of the front and back of  
37 their peace officer identification badge shall be adequate  
38 verification.

39 (h) Peace officers exempt from the submission of classifiable  
40 fingerprints pursuant to subdivision (f) shall report a change in

1 their active duty peace officer status to the bureau within 72 hours  
2 of the change in active duty peace officer status.

3 (i) (1) Peace officers exempt from obtaining a firearm  
4 qualification card pursuant to subdivision (c) of Section 7583.12  
5 shall submit to the bureau with their application for registration a  
6 letter of approval from his or her primary employer authorizing  
7 him or her to carry a firearm while working as a security guard or  
8 security officer.

9 (2) For purposes of this section, “primary employer” means a  
10 public safety agency currently employing a peace officer subject  
11 to this section.

12 (j) In addition to the amount authorized pursuant to Section  
13 7570.1, the bureau may impose an additional fee not to exceed  
14 three dollars (\$3) for processing classifiable fingerprint cards  
15 submitted by applicants excluding those submitted into an  
16 electronic fingerprint system using electronic fingerprint  
17 technology.

18 (k) An employee shall, on the first day of employment, display  
19 to the client his or her registration card if it is feasible and practical  
20 to comply with this disclosure requirement. The employee shall  
21 thereafter display to the client his or her registration card upon the  
22 request of the client.

23 SEC. 6. Section 7583.34 of the Business and Professions  
24 Code is amended to read:

25 7583.34. A licensee *or any lawful business or public agency*  
26 *that employs a security guard registered pursuant to this chapter*  
27 shall not permit any employee to carry a baton prior to ascertaining  
28 that the employee is proficient in the use of the weapon. Evidence  
29 of proficiency shall include a certificate from a baton training  
30 facility approved by the bureau which certifies that the employee  
31 is proficient in the use of the baton.

32 SEC. 7. Section 7583.36 of the Business and Professions  
33 Code is amended to read:

34 7583.36. A licensee *or any lawful business or public agency*  
35 *that employs a security guard registered pursuant to this chapter*  
36 shall not permit any employee to carry tear gas or any other  
37 nonlethal chemical agent prior to ascertaining that the employee  
38 is proficient in the use of tear gas or other nonlethal chemical  
39 agent. Evidence of proficiency shall include a certificate from a  
40 training facility approved by the Department of Consumer Affairs,

1 Bureau of Security and Investigative Services that the person is  
2 proficient in the use of tear gas or any other nonlethal chemical  
3 agent.

4 SEC. 8. Section 7587.7 of the Business and Professions Code  
5 is amended to read:

6 7587.7. If, upon investigation, the director determines a  
7 licensee, including a corporation, or registrant, *or any lawful*  
8 *business or public agency that employs a security guard registered*  
9 *pursuant to this chapter* is in violation of Section 7583.2, 7583.3,  
10 7583.37, 7585.19, 7587.2, or 7587.14, the director may issue a  
11 citation to the licensee or registrant, *lawful business, or public*  
12 *agency*. The citation shall be in writing and shall describe with  
13 particularity the nature of the violation, including specific  
14 reference to the provision of law determined to have been violated.  
15 If the director deems it appropriate, the citation may contain an  
16 order of abatement fixing a reasonable time for abatement of the  
17 violation and may contain an assessment of an administrative fine.  
18 The amount of the fine shall in no event exceed two thousand five  
19 hundred dollars (\$2,500) or as otherwise provided in this chapter,  
20 whichever is less.

21 A citation or fine assessment shall inform the licensee~~or~~,  
22 registrant, *lawful business, or public agency* that if he or she  
23 contests the finding of a violation, ~~they~~ *the licensee, lawful*  
24 *business, or public agency* may request a review by a disciplinary  
25 review committee in accordance with Section 7581.3. If a review  
26 is not requested pursuant to this section, payment of any fine shall  
27 not constitute an admission of the violation charged. If a review is  
28 not allowed under this chapter, a licensee~~or~~, registrant, *lawful*  
29 *business, or public agency* may request a hearing in accordance  
30 with the provisions of Chapter 5 (commencing with Section  
31 11500) of Part 1 of Division 3 of Title 2 of the Government Code  
32 if he or she wishes to contest the findings of a violation, and if a  
33 hearing is not requested, payment of any fines shall not constitute  
34 an admission of the violation charged.

35 If the licensee or registrant neither requests a review, nor pays  
36 the assessed fine within 30 days of the assessment, the license or  
37 registration of the person shall not be renewed pursuant to the  
38 provisions of this chapter until the assessed fine is paid.

1 Administrative fines collected pursuant to this article shall be  
2 deposited in the Private Security Services Fund, which fund is  
3 hereby created to carry out the purposes of this chapter.

4 SEC. 9. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution for  
6 certain costs that may be incurred by a local agency or school  
7 district because in that regard this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.

13 However, notwithstanding Section 17610 of the Government  
14 Code, if the Commission on State Mandates determines that this  
15 act contains other costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code. If the statewide cost of the  
19 claim for reimbursement does not exceed one million dollars  
20 (\$1,000,000), reimbursement shall be made from the State  
21 Mandates Claims Fund.

